IN THE HIGH COURT OF JUDICATURE AT BOMBAY

O.O.C.J.

NOTICE OF MOTION NO.3331 OF 2007

IN

APPEAL (L) NO.257 OF 2007

IN

COMPANY PETITION NO.280 OF 1999

...

State Bank of India ...Appellant

v/s.

Original Liquidator & ors. ...Respondents

...

Mr.N.Bhave i/b Bhave & Co. for the Appellant.

Mr.Kedar Dighe for the Respondents.

...

CORAM: D.K.DESHMUKH &

J.H.BHATIA, JJ.

DATED: 1ST OCTOBER, 2007

P.C.:

Heard the learned Counsel for both sides. Motion granted in terms of prayer clause (a).

(D.K.DESHMUKH, J.)

(J.H.BHATIA, J.)

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J.H.BHATIA, JJ.

DATED: 1ST OCTOBER, 2007

P.C.:

1. By consent of parties, Appeal is heard finally.

2. By the order impugned, the learned single Judge has granted a report of the Official Liquidator also in terms of prayer clause (a). By prayer clause (a) of the report, the Appellant/ State Bank of India has been directed to remit the sale-proceeds with interest accrued thereon to the Official Liquidator. It is pointed out by the Appellant/State Bank of India that the total sale-proceeds received were Rs.7,01,111/-. Proceedings were taken up by the State Bank of India before the Debt Recovery Tribunal. There a receiver was appointed by the DRT. An application was made by the Receiver before the DRT for payment of expenses incurred by the Receiver. By order dated 7-8-2002, the DRT directed the State Bank of India to pay expenses to the Receiver. According to the State Bank of India pursuant to the order made by the DRT, an amount of Rs.6,13,230/- has been paid by the Bank to the Receiver. According to the Bank, therefore, whatever amount that is in balance with the Bank will be remitted by the Bank to the Liquidator as per the order dated 8-2-2007.

3. We have heard the learned Counsel appearing for

the Official Liquidator. We have perused the record. There appears to be no dispute that the total amount received by the Bank was Rs.7,01,111/- and as per the record pursuant to the order made by the DRT out of that amount an amount of Rs.6,13,230/- has been paid by the Bank to the Receiver. In our opinion, therefore, the order impugned in the Appeal deserves to be clarified.

4. The Appeal is, therefore, disposed of with a clarification that while remitting the amount as per the order dated 8-2-2007 ,in terms of the prayer clause (a) of the Official Liquidator's Report, the State Bank of India shall be entitled to deduct the amount of Rs.6,13,230/- which has been paid over by the Bank to the Receiver pursuant to the order of the DRT.

(D.K.DESHMUKH, J.)

(J.H.BHATIA, J.)